

REMARKS

The Examiner has required restriction amongst the following groups:

Group I – claims 1-3 directed to an adhesive fabric;

Group II – claims 4 and 5 directed to a method of making an adhesive fabric;

Group III – claims 6-19 directed to a hose.

Applicants elect with traverse Group I, claims 1-3. The basis of the traversal is that the Examiner has applied improper standards for restriction. Attached to this response, please find a copy from Annex B (page AI-61) of the MPEP showing groups that should be examined together when applying unity of invention standards. In particular, Applicants respectfully submit that at least groups I and II should be examined together as it is proper to examine a product and a method of making that product together. Please see claims 1 and 2 from example 1 from Page AI-61 of Annex B of the MPEP, wherein it is shown that a product and a method of making that product should be examined together. Accordingly, Applicants respectfully request that at least Groups I and II which are directed to a product and a method of making that product be examined together.

Moreover, even if the Examiner should incorrectly maintain the restriction requirement and examine only group I, Applicants respectfully submit that rejoinder of product claims with a method of manufacturing that product is proper if they are of the same scope once the product claims are found to be allowable, in accordance with the holdings in *In Re Ochiai*, 71 F.3d 1565, 37 USPQ2d 1127 (Fed. Cir. 1995) and *In re Brouwer*, 77 F.3d 422, 37 USPQ2d 1663 (Fed. Cir. 1996).

In order to satisfy the election of species requirement, Applicants respectfully elect the species wherein the barrier material is a silicone elastomer as claimed in claim 2.

Finally, Applicants strongly object to the Examiner's characterization of Groups II and III as lacking novelty or inventive step. Applicants submit that the Examiner is making unsubstantiated allegations when in fact no art has been presented showing that these claims in fact lack novelty or an inventive step. Accordingly, Applicants do not acquiesce to this statement or the Examiner's position regarding these groups.

Status of the claims:

With the above amendments, claims 20-47 are added, claims 14-15 and 18-19 are canceled, claims 4-5, 7-13, 16, and 17 are withdrawn due to the restriction requirement, and claims 1-3 and 20-47 are pending and ready for further action on the merits. No new matter has been added by way of the above amendments. Support for the new claims can be found at page 2, lines 23-25, page 3, lines 9-11, and page 13, line 23-25. Applicants also request that claims 4-5 be examined with the elected claims for the reasons enumerated above.

Applicants believe that no fee is necessary, however, should a fee be deemed to be necessary, the Commissioner is hereby authorized to charge any fees required by this action or any future action to Deposit Account No. 16-1435.

Should the Examiner have any questions relating to the instant application, the Examiner is invited to telephone the undersigned at (336) 607-7486 to discuss any issues.

Respectfully submitted,

Date: February 20, 2007

*Tuesday after
a Monday Federal
Holiday.*

Ben Schroeder

T. Benjamin Schroeder (Reg. No. 50,990)

KILPATRICK STOCKTON LLP
1001 West Fourth Street
Winston-Salem, North Carolina 27101-2400
Phone: (336) 607-7486
Facsimile: (336) 607-7500

[ANNEX B, CONTINUED]**PART 2****EXAMPLES CONCERNING UNITY OF INVENTION**

The application of the principles of unity of invention is illustrated by the following examples for guidance in particular cases.

I. CLAIMS IN DIFFERENT CATEGORIES**Example 1**

- Claim 1: A method of manufacturing chemical substance X.
- Claim 2: Substance X.
- Claim 3: The use of substance X as an insecticide.

Unity exists between claims 1, 2 and 3. The special technical feature common to all the claims is substance X.

Example 2

- Claim 1: A process of manufacture comprising steps A and B.
- Claim 2: Apparatus specifically designed for carrying out step A.
- Claim 3: Apparatus specifically designed for carrying out step B.

Unity exists between claims 1 and 2 or between claims 1 and 3. There is no unity between claims 2 and 3 since there exists no common special technical feature between the two claims.

Example 3

- Claim 1: A process for painting an article in which the paint contains a new rust inhibiting substance X including the steps of atomizing the paint using compressed air, electrostatically charging the atomized paint using a novel electrode arrangement A and directing the paint to the article.
- Claim 2: A paint containing substance X.
- Claim 3: An apparatus including electrode arrangement A.

Unity exists between claims 1 and 2 where the common special technical feature is the paint containing substance X or between claims 1 and 3 where the common special technical feature is the electrode arrangement A.

However, unity is lacking between claims 2 and 3 since there exists no common special technical feature between them.

Example 4

- Claim 1: Use of a family of compounds X as insecticides.
- Claim 2: Compound X₁ belonging to family X.

Provided X₁ has the insecticidal activity and the special technical feature in claim 1 is the insecticidal use, unity is present.

EXPRESS MAIL NO. EV 740578516 US

Manual of PATENT EXAMINING PROCEDURE

Original Eighth Edition, August 2001

Latest Revision May 2004



U.S. DEPARTMENT OF COMMERCE
United States Patent and Trademark Office

The U.S. Patent and Trademark Office does not handle the sale of the Manual, distribution of notices and revisions, or change of address of those on the subscription list. Correspondence relating to existing subscriptions should be sent to the Superintendent of Documents at the following address:

Superintendent of Documents
Mail List Section
Washington, DC 20402

Telephone: 202-512-2267

Inquiries relating to purchasing the Manual should be directed to:

Superintendent of Documents
United States Government Printing Office
Washington, DC 20402

Telephone: 202-512-1800

Orders for reproduced copies of individual replacement pages or of previous revisions of the Manual should be sent to the following address:

Mail Stop Document Services
Director of the U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Telephone: 1-800-972-6382 or 703-308-9726

Previous editions and revisions of the Manual are available on microfilm in the Patent Search Room.
The Manual is available on CD-ROM and on diskette from:

U.S. Patent and Trademark Office
Office of Electronic Information Products and Services
P.O. Box 1450
Alexandria, VA 22313-1450

Telephone: 703-306-2600

Employees of the U.S. Patent and Trademark Office should direct their requests for the Manual, replacement pages, notices, and revisions to the Patent Academy.

Telephone: 703-308-9660

Pursuant to the Patent and Trademark Office Efficiency Act (PTOEA) (Pub. L. 106-113, 113 Stat. 1501A-572), the head of the United States Patent and Trademark Office (USPTO) is the "Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office." The Director is assisted by the "Deputy Under Secretary of Commerce for Intellectual Property and Deputy Director of the United States Patent and Trademark Office." The patent operations of the USPTO are now headed by the "Commissioner for Patents." The trademark operations of the USPTO are now headed by the "Commissioner for Trademarks." Under section 4741(b) of the PTOEA, any reference to the Commissioner of Patents and Trademarks, the Assistant Commissioner for Patents, or the Assistant Commissioner for Trademarks is deemed to refer to the Director, the Commissioner for Patents, or the Commissioner for Trademarks, respectively. See "Reestablishment of the Patent and Trademark Office as the United States Patent and Trademark Office" published in the *Federal Register* at 65 FR 17858 (Apr. 5, 2000), and in the *Official Gazette of the United States Patent and Trademark Office* at 1234 O.G. 41 (May 9, 2000).

Additions to the text of the Manual are indicated by arrows (><) inserted in the text. Deletions are indicated by a single asterisk (*) where a single word was deleted and by two asterisks (**) where more than one word was deleted. The use of three or five asterisks in the body of the laws, rules, treaties, and administrative instructions indicates a portion of the law, rule, treaty, or administrative instruction which was not reproduced.

- First Edition, November 1949
- Second Edition, November 1953
- Third Edition, November 1961
- Fourth Edition, June 1979
- Fifth Edition, August 1983
- Sixth Edition, January 1995
- Seventh Edition, July 1998
- Eighth Edition, August 2001
- Revision 1, February 2003
- Revision 2, May 2004